IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1504 (S/S) of 2005

Nirmal Kumar Dube,
son of Sri Munna Lal Dube
84, Numaies Khet,
Bageshwar. ……..Petitioner.

V e r s u s.

1. State of Uttaranchal through Secretary, Rural and Urban Development, Uttaranchal Shashan, Dehradun.
2. U.P. Jal Nigam through its Managing Director, 6 Rana Pratap Marg, Lucknow.
3. Uttaranchal Pey Jal Sansadhan Evam Nirman Nigam through its M.D. / Chief Engineer, 11, Mohini Marg, Dehradun.
4. Chief Engineer Kumaon, Uttaranchal Pey Jal Sansadhan Evem Nigam, Nainital.
5. Superintending Engineer, Uttaranchal Pey Jal Sansadhan Evam Nirman Nigam, Nainital.
6. Executive Engineer / Project Manager, Construction Wing Uttaranchal Pey Jal Sansadhan Evam Nirman Nigam, Bageshwar.

…….Respondents.

Hon'ble M.M. Ghildiyal, J.:

Heard Sri B.S. Adhikari, learned counsel for the petitioner, Sri D.S. Patni, learned counsel for respondents no. 3 to 6, Sri Sudhir Singh, learned counsel for respondent no. 2 and leaned standing counsel for respondent no. 1.

By means of this writ petition, the petitioner has prayed to issue a writ in the nature of Mandamus commanding the respondents to treat the petitioner under Hill Sub Cadre of Uttaranchal Pay Jal Nigam.

The Submission of the petitioners is that petitioner has opted for Hill Sub Cadre on 02.07.1994, however, the name of the petitioner does not find place in the list prepared by the Uttaranchal Pey Jal Nigam for Hill Sub Cadre.

Leaned counsel for the respondent nos. 1 and 2 has submitted that the records pertaining to the petitioner were not available with the respondents (Department) and the same has already been called from respondent no. 3 and due to non-availability of records the name of the petitioner was not included in the list. Learned counsel for the respondent no. 3 has submitted that most of the records have been supplied to respondents no. 1 & 2 and in case, records pertaining to the petitioner has not been supplied, the same shall be supplied at the earliest.

Leaned counsel for the petitioner has further submitted that he has rendered his entire services in the State of Uttaranchal. Similarly situated persons have filed writ petitions before this court and this court has passed an order that till the decision is taken by the respondents on the options submitted by those similarly situated (the then petitioners), they shall not be relieved for State of U.P.

Petitioner, who has rendered his entire service in the State of Uttaranchal, is also entitled to get the same relief. In case, the petitioner has not already been relieved, he shall not be relieved for State of U.P. till the decision is taken by the respondents on the option submitted by him and in case, petitioner has already been relieved, the respondents, considering the fact that the case of the petitioner is similar to those persons, who have not been relieved for State of U.P. in view of the fact that they have opted for Hill Sub Cadre and they were permanent resident of State of Uttaranchal.

Respondents may keep the relieving order dated 30.09.2005 in abeyance, till the final decision is taken on the option submitted by the petitioner.

Respondents may take decision on the option submitted by the petitioner in view of the observation made by this court in judgement and order dated 05.10.2001 passed in Writ Petition No. 860 (SB) of 2001 (Sukh Dev Mehta Vs. State of Uttaranchal)

With this direction the writ petition is disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

October 07, 2005
SKSharma